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6 DISTRICT JUDGE BENJAMIN H. SETTLE  
7 MAGISTRATE JUDGE DAVID W. CHRISTEL

8  
9 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 MATTHEW R. RUTH,

11 Plaintiff,

12 v.

13 PATRICK GLEBE, et al.

14 Defendants.

15 NO. 2:14-cv-01388-BHS-DWC

16 DEFENDANTS' ANSWER TO  
17 PLAINTIFF'S SECOND AMENDED  
18 CIVIL RIGHTS COMPLAINT AND  
19 JURY DEMAND

20 COME NOW the Defendants, DONNA DIXON, MARK DRAGOON, PATRICK  
21 GLEBE, ISRAEL "ROY" GONZALEZ, VIOLA GORHAM, DALLAS HENSLEY, VICTOR  
22 MARTINEZ, TERRIE MATSEN, KEVIN SHANAHAN, CHERYL SULLIVAN, and  
23 JOSHUA SUTHERBY, by and through their attorneys of record, ROBERT W. FERGUSON,  
24 Attorney General, and CANDIE M. DIBBLE, Assistant Attorney General, and submit their  
25 Answer to Plaintiff's Second Amended Complaint. ECF No. 84.

26  
ANSWER

27 Under Federal Civil Rule 8(b), Defendants generally deny each allegation of fact in  
28 Plaintiff's Second Amended Complaint unless the allegation of fact is expressly admitted.  
29 Defendants will not respond to legal arguments contained in the Plaintiff's Second Amended  
30 Complaint and will deny them if it is unclear if the Plaintiff is asserting a factual or legal claim.

## I. PREVIOUS LAWSUITS

Defendants are without sufficient knowledge as to the allegations contained in this section of the Plaintiff's Second Amended Complaint and therefore deny the same.

## II. PLACE OF PRESENT CONFINEMENT

Defendants admit that at the time Plaintiff filed this lawsuit he was housed at the Stafford Creek Corrections Center in Aberdeen, Washington, a Washington Department of Corrections (DOC) facility.

Defendants admit that there is a grievance procedure available at the Plaintiff. Defendants deny Plaintiff completed the grievance process available to him.

### III. INTRODUCTION

Defendants deny the allegations listed in this section of the Plaintiff's Second Amended Complaint as they call for legal conclusions.

#### IV. JURISDICTION AND VENUE

## 1. Admit.

## 2. Admit.

## V. PARTIES

3. Admit.

4. Defendants admit Patrick Glebe was the Superintendent of Stafford Creek  
tions Center. Defendants deny Roy Gonzales is the correctional manager prison  
n. Defendants deny all other remaining allegations in this paragraph of the Plaintiff's  
d Amended Complaint as they call for legal conclusions.

5. Defendants admit Gorham, Martinez, Sutherby, LaRose, Shanahan, Hensley, Matsen, Dixon, Dragoo, Sullivan, Davis, May and Kain have all been named as Defendants in this paragraph of the Plaintiff's Second Amended Complaint. Defendants deny the remaining allegations.

## 6. Admit.

## VI. FACTS

7. Defendants are without sufficient knowledge as to the allegations contained in this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

8. Defendants are without sufficient knowledge as to the allegations contained in this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

9. Defendants are without sufficient knowledge as to the allegations contained in this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

10. Defendants are without sufficient knowledge as to the allegations contained in this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

11. Defendants are without sufficient knowledge as to the allegations contained in this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

12. Defendants admit Plaintiff filed grievances related to mail rejections. Defendants assert the grievance documents speak for themselves.

13. Defendants are without sufficient knowledge as to the allegations contained in this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

14. Defendants admit Plaintiff was issued mail rejections 43957 and 43958. Defendants assert the mail rejections speak for themselves.

15. Defendants are without sufficient knowledge as to the allegations contained in this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

16. Defendants admit Defendant Gonzales responded to Plaintiff's mail rejection appeal. Defendants assert the correspondence speaks for itself.

17. Defendants admit Plaintiff filed mail rejection appeals. Defendants assert the mail rejection appeal documents speak for themselves. Defendants deny all remaining allegations in this paragraph.

18. Deny.

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1       19. Defendants admit at the time of the Plaintiff's claims, the information in the law  
2 library was updated on a quarterly basis. Defendants deny all remaining allegations in this  
3 paragraph.

4       20. Defendants admit Plaintiff filed mail rejection appeals. Defendants assert the  
5 mail rejection appeal documents speak for themselves. Defendants deny all remaining  
6 allegations in this paragraph.

7       21. Deny.

8       22. Deny.

9       23. Deny.

10      24. Defendants are without sufficient knowledge as to the allegations contained in  
11 this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

12      25. Defendants admit Plaintiff filed grievance Log ID 14555004. Defendants assert  
13 the grievance records speak for themselves.

14      26. Defendants admit Plaintiff filed grievance Log ID 14555004. Defendants assert  
15 the grievance records speak for themselves.

16      27. Defendants admit Plaintiff filed grievance Log ID 14555004. Defendants assert  
17 the grievance records speak for themselves.

18      27<sup>1</sup>. Defendants admit Plaintiff filed grievance Log ID 14555004. Defendants assert  
19 the grievance records speak for themselves.

20      30. Defendants neither deny nor admit this paragraph of the Plaintiff's Second  
21 Amended Complaint.

22      31. Deny.

23      32. Defendants neither deny nor admit this paragraph of the Plaintiff's Second  
24 Amended Complaint.

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26      

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<sup>1</sup> Plaintiff's First Second Complaint has two paragraphs numbered 27 and then skips to paragraph 30.

1       33. Defendants neither deny nor admit this paragraph of the Plaintiff's Second  
2 Amended Complaint.

3       34. Deny.

4       35. Defendants are without sufficient knowledge as to the allegations contained in  
5 this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

6       36. Defendants are without sufficient knowledge as to the allegations contained in  
7 this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

8       37. Deny.

9       38. Deny.

10      39. Deny.

11      40. Deny.

12      41. Deny.

13      42. Deny.

14      43. Deny.

15      44. Deny.

16      45. Deny.

17      46. Deny.

18      47. Deny.

19      48. Deny.

20      49. Defendants admit because e-filing for offenders was on a "pilot project" basis,  
21 the procedures are not included formally in any policy.

22      50. Deny.

23      51. Deny.

24      52. Deny.

25      53. Defendants are without sufficient knowledge as to the allegations contained in  
26 this paragraph of the Plaintiff's Second Amended Complaint and therefore deny the same.

1 54. Deny.

2 55. Deny.

3 ///

4 **VII. EXHAUSTION OF LEGAL REMEDIES**

5 Defendants admit Plaintiff filed mail rejection appeals and utilized the Offender  
6 Grievance Process. Defendants assert the records speak for themselves. Defendants deny the  
7 remaining allegations in this paragraph of the Plaintiff's Second Amended Complaint.

8 **VIII. LEGAL CLAIMS**

9 Defendants deny all allegations contained in this sections of the Plaintiff's Second  
10 Amended Complaint.

11 **IX. REQUEST FOR RELIEF**

12 Defendants deny Plaintiff is entitled to any of the relief set forth in this section of the  
13 Plaintiff's Second Amended Complaint.

14 **X. AFFIRMATIVE DEFENSES**

15 Having answered the allegations of Plaintiff's Second Amended Complaint, and by  
16 way of further answer and affirmative defense, Defendants affirmatively allege:

17 1. Plaintiff has failed to state a claim upon which relief can be granted.

18 2. All acts allegedly done by the Defendants with respect to Plaintiff were done in  
19 the reasonable belief that they were in accordance with the Federal Constitution, and the laws  
20 of the state of Washington and the United States. Defendants also acted pursuant to published  
21 policies and field instructions, which they could have reasonably believed were constitutional.  
22 Defendants are entitled to qualified immunity from damages.

23 3. Defendants reserve the right to allege additional affirmative defenses after the  
24 completion of discovery.

25 Having fully answered the Plaintiff's Second Amended Complaint and having stated  
26 affirmative defenses, Defendants pray for judgment dismissing the Plaintiff's Second

1 Amended Complaint and action with prejudice. Defendants also request costs and reasonable  
2 attorney's fees.

3 **XI. JURY DEMAND**

4 Should this matter proceed to trial, Defendants demand a jury determine all issues of  
5 fact.

6 RESPECTFULLY SUBMITTED this 31<sup>st</sup> day of May, 2016.

7 ROBERT W. FERGUSON  
8 Attorney General

9  
10 s/ Candie M. Dibble  
11 CANDIE M. DIBBLE, WSBA #42279  
12 Assistant Attorney General  
13 Corrections Division  
14 Attorneys for Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

MATTHEW R RUTH DOC #879492  
STAFFORD CREEK CORRECTIONS CENTER  
191 CONSTANTINE WAY  
ABERDEEN WA 98520  
Email: [docscfccinmatefederal@DOC1.WA.GOV](mailto:docscfccinmatefederal@DOC1.WA.GOV)

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 31<sup>st</sup> day of May, 2016, at Spokane, Washington.

s/ Patty Willoughby  
**PATTY WILLOUGHBY**  
Legal Assistant III